IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 6722 OF 2005

Rajendra Madhukar Shimpi... .... Petitioner.

Versus

The Head Master, Shree Nakoda
Deaf and Sumb School & Ors... ... Respondents.

Mr. Mandar Limaye for the Petitioner.

Ms. Bhavana Shah for Respondent Nos.1 & 2.

**CORAM : R. M. LODHA &**
**NARESH H. PATIL, JJ.**

**DATED : 7TH AUGUST, 2006.**

**P.C. :**

We heard Mr. Mandar Limaye, Counsel for the petitioner and Ms. Bhavana Shah, Counsel for respondent nos.1 and 2.

2. On 19th August, 2005 when the writ petition was filed by the petitioner, he was 37 years old as is reflected from the cause title. His grievance is that the application made by him on 12th July, 2004 for his appointment to the post of Art Teacher in Shree Nakoda Deaf and Dumb School, At & Post Sarawali, Tal. Bhiwandi, Dist. Thane run by respondent no.2, was not considered and the respondent nos.6 to 9 were illegally

appointed as Art Teachers in the said School. According to the petitioner, Rule 64-A of the Special Handicapped School Code was not followed.

3. The grievance of the petitioner has no merit and the writ petition is liable to be dismissed for the reasons that we indicate hereinafter.

4. The petitioner has not been able to show that though he was 36 years old at the time of making application, he was not above the age limit prescribed in law. He has also not been able to show as to on what basis he made application on 12th July, 2004 for his appointment to the post of Art Teacher. The copy of the application dated 12th July, 2004 is on record and if any reason can be discerned from there, the said reason is that in the year 1995-1996, for some time he worked with the Management of respondent no.2 as a temporary clerk. We are afraid, that hardly gave him any right to make application for the appointment to the post of Art Teacher. Exhibit "E", that has been annexed by the petitioner with the writ petition, shows that respondent no.6 was appointed as Art Teacher in the category of Other Backward Class on 25th June, 2001. The respondent no.7 was also appointed as Art Teacher with effect from 25th June, 2001 in the category of Other Backward Class. The respondent No.8 was appointed on 2nd February, 2004

also in the category of Other Backward Class. While respondent no.9 was appointed as Art Teacher with effect from 1st July, 2004 in the category of Scheduled Caste. Two of these appointments in the category of Other Backward Class were made on 25th June, 2001 and the third appointment in the category of Other Backward Class was made on 2nd February, 2004. Until the appointments were made and immediately thereafter, there was no challenge to the appointment of respondent nos.6 to 8. The writ petition was filed on 19th August, 2005. In other words, the appointment of respondent nos.6 and 7 is sought to be challenged almost after four years while the appointment of respondent no.8 is sought to be challenged after more than 18 months. In so far as respondent no.9 is concerned, the petitioner cannot have any claim as the said appointment is in the category of Scheduled Caste while the petitioner, as per the averments made in the writ petition, belongs to Other Backward Class category.

5. Besides that we find that the School - the respondent no.1, which is run by respondent no.2, is Deaf and Dumb School and is, accordingly, a special school and governed by the resolutions issued from time to time under the Special Handicapped School Code. The petitioner having no right to the post has no locus to challenge the appointment of respondent nos.6 to 9.

6. The writ petition does not deserve to be admitted.

7. Dismissed in limine.

Sd/-

**(R. M. LODHA, J.)**

Sd/-

**(NARESH H. PATIL, J.)**